IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3868 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MUKESHBHAI DASHRATHLAL PATEL
Versus
STATE OF GUJARAT

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Appearance :
MR MB GANDHI for Petitioner(s) : 1,
MS KRINA CALLA, ASST. GOVERNMENT PLEADER for Respondent.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 03/08/2007

ORAL JUDGMENT

In the present petition, the petitioner has

challenged an order dated 04.09.96 passed by the Collector, Amedabad as upheld by the State Government in the appellate order dated 30th March 1998.

The petitioner was dealing in controlled items under the Gujarat Essential Commodities (Licencing Control Order) 1981. Two trucks laden with quantity of wheat were intercepted by the authorities on 02.12.95. Since several irregularities were detected, a show cause notice came to be issued to the petitioner on 15.07.96, levelling several charges interalia suggesting that wheat could not have been sold in the open market and suggestion of the petitioner that the same was meant for export through Adani Exports and the trucks were being directed to Kandla port was not borne out from the documents available. On these grounds, the entire quantity of 350 bags of wheat valued at Rs.1,61,000/- was sought to be confiscated.

The petitioner filed its reply on 26.08.96. denying the charges. The competent authority vide its impugned order dated 04.09.96 did not accept the explanation of the petitioner, found that the charges are proved, but confined the confiscation to Rs.60,000/-. The petitioner furnished security for the said amount. The petitioner appealed against the order unsuccessfully as the State Government dismissed the appeal of the petitioner.

Learned advocate Mr. Gandhi for the petitioner submitted that the wheat was purchased by the petitioner from FCI in a public auction and that the same was meant to be exported from Kandla. The petitioner had, therefore, not breached any of the control orders.

It is not in dispute that the petitioner could not have sold the wheat in the open market at the relevant time. The authorities found that the petitioner or his agents did not have documents to establish that the wheat was agreed to be sold to Adani Exports for export and the wheat was being transported to Kandla. Much later, the petitioner tried to produce some documents to establish this version. The authorities, however, found that the petitioner had breached prohibitory orders.

I find that the entire case is revolving around factual aspects. Two authorities below have concurrently found that there was no evidence to establish that wheat was sold to Adani export or that the same was being transported to Kandla for export. I find no substance in the petition. The petition is therefore dismissed. Rule is discharged.

[AKIL KURESHI, J.]

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